

## § 1156.1

## 45 CFR Ch. XI (10–1–02 Edition)

### Subpart B—Standards for Determining Discriminatory Practices

- 1156.5 Purpose.
- 1156.6 Rules against age discrimination.
- 1156.7 Exceptions to the rules against age discrimination.
- 1156.8 Burden of proof.

### Subpart C—Responsibilities of Endowment Recipients

- 1156.9 [Reserved]
- 1156.10 General responsibilities.
- 1156.11 Notice to subrecipients.
- 1156.12 Self-evaluation.
- 1156.13 Information requirements.

### Subpart D—Investigation, Conciliation, and Enforcement Procedures

- 1156.14 Compliance reviews.
- 1156.15 Complaints.
- 1156.16 Mediation.
- 1156.17 Investigation.
- 1156.18 Prohibition against intimidation or retaliation.
- 1156.19 Compliance procedure.
- 1156.20 Alternate funds disbursement procedure.
- 1156.21 Exhaustion of administrative remedies.

AUTHORITY: 42 U.S.C. 6101 *et seq.*; 45 CFR part 90.

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### Subpart A—General

#### § 1156.1 Purpose.

The purpose of this part is to implement the Age Discrimination Act of 1975 (“Act”), as amended, and as required by the general age discrimination regulations at 45 CFR part 90. The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs and activities, and recipients of Federal funds to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and the regulations in this part.

#### § 1156.2 Application.

(a) The Age Discrimination Act of 1975 and the regulations in this part apply to any program or activity receiving financial assistance from the National Endowment for the Arts and

to each program or activity that receives or benefits from such assistance.

(b) The Age Discrimination Act of 1975 does not apply to:

(1) Any age distinction contained in that part of Federal, State, or local statute or ordinance adopted by an elected general purpose legislative body which:

(i) Provides benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Job Training Partnership Act (JTPA).

#### § 1156.3 Definitions.

As used in the regulation in this part, the term:

(a) *Act* means the Age Discrimination Act of 1975, as amended (Title III of Pub. L. 94–135).

(b) *Action* means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

(c) *Age* means how old a person is or the number of elapsed years from the date of a person’s birth.

(d) *Age distinction* means any action using age or any age-related term.

(e) *Age-related term* means a word or words which necessarily imply a particular age or range of ages (for example, “children,” “adult,” “older person,” but not “student”).

(f) *Federal financial assistance* means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal government.

(g) *Normal operation* means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(h) *Recipient* means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(i) *Statutory objective* means any purpose of a program or activity expressly stated in any Federal statute, state statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

(j) *Sub-recipient* means any of the entities in the definition of recipient to which a recipient extends or passes on Federal financial assistance and has all the duties of a recipient in the regulations in this part.

(k) *Endowment* means the National Endowment for the Arts.

(l) *Chairperson* means the Chairperson of the National Endowment for the Arts.

(m) *Secretary* means the Secretary of the Department of Health and Human Services.

(n) *United States* means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Federated States of Micronesia and the Republic of Palau, the Northern Marianas, and the territories and possessions of the United States.

#### § 1156.4 [Reserved]

### Subpart B—Standards for Determining Discriminatory Practices

#### § 1156.5 Purpose.

The purpose of this subpart is to set forth the prohibitions against age discrimination and the exceptions to those prohibitions.

#### § 1156.6 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in § 1156.7 (b) and (c).

(a) *General rule.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) *Specific rules.* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list of discriminatory actions.

#### § 1156.7 Exceptions to the rules against age discrimination.

(a) *Normal operation or statutory objective of any program or activity.* A recipient is permitted to take an action otherwise prohibited by § 1156.6 if the action reasonably takes into account age